

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0533P

**Withholding Tax
Calendar Years 1996**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a contractor who performed one construction job in Indiana during 1995 and 1996. Taxpayer protests the penalty assessed on an audit completed on June 11, 1999.

Taxpayer failed to withhold tax from an out of state contractor who performed jobs in Indiana.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer requests the department waive its negligence penalty because it was the first construction job in Indiana and it was not aware of the tax laws, especially those pertaining to sub-contractors. Taxpayer further states that the Indiana rules are quite different from its home state.

Taxpayer's audit revealed that it was the primary lump sum contractor for a construction project in Indiana. The taxpayer failed to withhold tax from out of state contractors that were not registered with the department as required by statute and has not provided reasonable cause for failing to do so.

Taxpayer also utilizes a certified accounting firm that prepares its returns and employs a controller who is also a CPA.

Taxpayer should be aware of its tax liabilities when doing business in this state.

FINDING

Taxpayer's protest is denied.